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EXAMINER

EKPO, NNENNA NGOZI

ART UNIT

PAPER NUMBER

2425

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,827	<b>Applicant(s)</b> BIES, RICHARD J.	
	<b>Examiner</b> NNENNA N. EKPO	<b>Art Unit</b> 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/10/2009</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The reference listed in the Information Disclosure Statement filed on September 10, 2009 has been considered by the examiner (see attached PTO-1449 forms).

2. In view of the appeal brief filed on April 27, 2009, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2425

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-5, 7, 9 and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by Yamamoto (U.S. Patent No. 7,302,696).

Regarding **claim 1**, Yamamoto discloses a television network content delivery system configured to provide advertising information via a digital broadcast channel of a television network, said television network content delivery system comprising:

a data gateway configured to store the advertising information, the advertising information being adapted by a cable content generator for transmission over the digital broadcast channel of the television network based on content information received from an advertiser (merchant, 122) over an internet (internet, 124) (see col. 4, lines 39-55 and fig. 1);

an advertising information retriever configured to process a user search received via the digital broadcast channel of the television network, and to retrieve the advertising information from said data gateway based on the user search (see col. 2, lines 21-28); and

an advertising information provider configured to transmit, based on the user search, advertising information retrieved by said advertising information retriever via the digital broadcast channel of the television network (see col. 7, lines 54-63, fig 5 (506)).

Regarding **claim 2**, Yamamoto discloses everything claimed as applied above (see *claim 1*). Yamamoto discloses wherein the user search is transmitted by a user via a set-top box or a television to the digital broadcast channel of the television network (see figs 4-16, col. 11, lines 29-56),

the user search comprises designating a category of advertising (see abstract, lines 1-4, col. 2, lines 25-38),

based on the designated category, the advertising information retriever searches advertising information listings stored in the data gateway and selects the advertising listings that match the designated category and other criteria (see col. 7, lines 27-53),

said other criteria comprises at least a geographical location of the user (see col. 11, lines 18-22, col. 12, lines 5-9, col. 13, lines 5-8), and

the set-top box or the television is connected to the television network via at least one of a cable wire, an antenna receiving a television broadcast frequency, a satellite dish or other wireless connection (see col. 3, lines 14-25 and fig. 1).

Regarding **claim 3**, Yamamoto discloses everything claimed as applied (see *claim 1*). The television network content delivery system, wherein the advertising information includes at least one of an advertiser listing (see fig. 5 (Nordstroms, Pottery Barn, North Face)), a text message (see col. 7, lines 49-53), a survey questionnaire, a picture (see figs. 14 and 15), an audio clip, and a video clip (see figs. 5, 14, 15 and col. 7, lines 49-53).

Art Unit: 2425

Regarding **claim 4**, Yamamoto discloses everything claimed as applied (see *claim 1*). The television network content delivery system, wherein the television network content delivery system is implemented as at least two data processors comprising a cable headend server (H/E, 306) and a master server (source, 304) (see fig 3).

Regarding **claim 5**, Yamamoto discloses everything claimed as applied (see *claim 1*). The television network content delivery system, wherein the user search is an advertiser search command (see col. 7, lines 54-63).

Regarding **claim 7**, Yamamoto discloses everything claimed as applied (see *claim 5*). The television network content delivery system, wherein the advertiser search command is for a category of advertising, the category of advertising being one of a field of business endeavor of the advertiser, type of organization of the advertiser, and type of product advertised by the advertiser (dinning, furniture, music & videos, sporting goods etc.) (see col. 7, lines 31-39 and fig. 6).

Regarding **claim 9**, Yamamoto discloses everything claimed as applied (see *claim 1*). The television network content delivery system, wherein the advertising information retriever is further configured to process another user search including one of a response to a survey questionnaire transmitted to the user as the advertising information and an order for a selected product (see figs. 15 and 16, col. 9, lines 43-col. 10, line 43).

Regarding **claim 20**, Yamamoto discloses everything claimed as applied (see *claim 1*). The television network content delivery system wherein the user search is provided to the television network via a satellite network (see figs. 1-3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 10-11, 13-14, 16-17 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (U.S. Publication No. 2003/0040970) and Yamamoto (U.S. Patent No. 7,302,696).

Regarding **claim 10**, Miller discloses an advertising content interface configured to provide advertising information adapted for transmission over a digital broadcast channel of a television network by a television network headend, said advertising content interface comprising:

an interface unit configured to receive content information from an advertiser via an internet (see paragraph 0005 and fig 1);

a cable content generator configured to process the content information received by said advertiser interface and to generate advertising information adapted for transmission over the network (see paragraph 0005 and fig. 1); and

a data gateway configured to store the advertising information generated by said content generator and to respond to an information demand from the network by providing the advertising information to the network server for transmission over the network (see paragraphs 0048 and 0072).

In an analogous art, Yamamoto discloses a data gateway configured to store the advertising information generated by said cable content generator and to respond to an information demand from the cable network by providing the advertising information to the cable network headend for transmission over the cable network (see col. 4, lines 39-55 and fig. 1, col. 2, lines 21-28, col. 7, lines 54-63, fig 5 (506)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Miller to include a data gateway configured to store the advertising information generated by said cable content generator and to respond to an information demand from the cable network by providing the advertising information to the cable network headend for transmission over the cable network as taught by Yamamoto for the advantage of improving the need in the way coupons are made available to consumers and in the way they are redeemed with the merchant as disclosed in col. 1, lines 52-54.

Regarding **claim 11**, Miller and Yamamoto discloses everything claimed as applied (see *claim 10*). Yamamoto discloses the advertising content interface, wherein the data gateway provides the advertising information to the cable network headend (distribution center, 306) for transmission over the cable network responsive to the



Art Unit: 2425

information demand, the information demand being a transmission of a user command over the cable network by a user (see fig. 3, col. 5, lines 18-col. 6, lines 55).

Regarding **claim 13**, Miller and Yamamoto discloses everything claimed as applied (see *claim 10*). Yamamoto discloses the television network content delivery system, wherein the advertising information includes at least one of an advertiser listing (see fig. 5 (Nordstroms, Pottery Barn, North Face)), a text message (see col. 7, lines 49-53), a survey questionnaire, a picture (see figs. 14 and 15), an audio clip, and a video clip (see figs. 5, 14, 15 and col. 7, lines 49-53).

Regarding **claim 14**, Miller and Yamamoto discloses everything claimed as applied (see *claim 10*). Yamamoto discloses the advertising content interface, further comprising a business mediator (merchant, 122), configured to validate an order from the advertiser, the order requesting transmission of the content information to be transmitted (see fig 2).

Regarding **claim 16**, Miller discloses a method of receiving content information and to provide advertising information over a cable network, said method comprising:

receiving content information from an advertiser via an internet (see paragraph 0005 and fig 1);

processing the content information received and generating advertising information adapted for transmission over the network (see paragraph 0005 and fig 1).

Art Unit: 2425

However, Miller is silent on receiving via the digital broadcast channel of the television network an advertising search and retrieving the stored advertising information according to the advertising search; and

providing the retrieved advertising information via the digital broadcast channel of the television network.

In an analogous art, Yamamoto discloses a method of receiving content information and to provide advertising information over a cable network, said method comprising:

receiving content information from an advertiser via an internet (see col. 4, lines 21-38, fig. 1);

processing the content information received and generating advertising information adapted for transmission over the cable network (see col. 4, lines 57-col. 5, line 58, col. 7, lines 1-12);

storing the generated advertising information (see col. 4, lines 39-55, fig. 1);

receiving via the digital broadcast channel of the television network an advertising search and retrieving the stored advertising information according to the advertising search (see col. 2, lines 21-28); and

providing the retrieved advertising information via the digital broadcast channel of the television network (see col. 7, lines 54-63).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Miller to include receiving via the digital broadcast channel of the television network an advertising search and

Art Unit: 2425

retrieving the stored advertising information according to the advertising search; and providing the retrieved advertising information via the digital broadcast channel of the television network as taught by Yamamoto for the advantage of improving the need in the way coupons are made available to consumers and in the way they are redeemed with the merchant as disclosed in col. 1, lines 52-54.

Regarding **claim 17**, Miller and Yamamoto discloses everything claimed as applied (*see claim 1*). Yamamoto discloses the television network content delivery system, wherein the advertising information includes at least one of an advertiser listing (see fig. 5 (Nordstroms, Pottery Barn, North Face)), a text message (see col. 7, lines 49-53), a survey questionnaire, a picture (see figs. 14 and 15), an audio clip, and a video clip (see figs. 5, 14, 15 and col. 7, lines 49-53).

Regarding **claim 19**, Yamamoto discloses everything claimed as applied (*see claim 16*). The television network content delivery system, wherein the advertising information retriever is further configured to process another user search including one of a response to a survey questionnaire transmitted to the user as the advertising information and an order for a selected product (see figs. 15 and 16, col. 9, lines 43-col. 10, line 43).

5. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto (U.S. Patent No. 7,302,696) as applied to *claim 5* above, and further in view of Peckover (U.S. Patent No. 6,119,101).

Regarding **claim 6**, Yamamoto discloses everything claimed as applied above (see *claim 5*). However, Yamamoto fails to specifically disclose the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area and advertising information designated by the advertiser for a designated time period.

In an analogous art, Peckover discloses the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection (see col. 14, lines 3-5 and fig. 40 (location)) and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area (see col. 14, lines 3-5 and fig. 40 (location)) and advertising information designated by the advertiser for a designated time period (see col. 14, lines 9-11, fog. 42 (start date and time)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system and method of Yamamoto to include the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection and

Art Unit: 2425

an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area and advertising information designated by the advertiser for a designated time period as taught by Peckover for the advantage of automatically rejecting unsolicited messages that do not satisfy the consumer's preferences as disclosed in abstract, lines 17-19.

**Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto (U.S. Patent No. 7,302,696) as applied to *claim 5* above, and further in view of Finseth et al. (U.S. Publication No. 2009/0193458).

Regarding **claim 8**, Yamamoto discloses everything claimed as applied above (*see claim 1*). However, Yamamoto fails to specifically disclose a delivery status interface configured to generate a report provided to the advertiser about delivery of the advertising information over the digital broadcast channel of the television network, the report indicating the number of times the advertising information was viewed.

In an analogous art, Finseth et al. discloses a delivery status interface configured to generate a report provided to the advertiser about delivery of the advertising information over the digital broadcast channel of the television network, the report indicating the number of times the advertising information was viewed (see paragraph 0107).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system and method of Yamamoto to include a delivery status interface configured to generate a report provided to the

Art Unit: 2425

advertiser about delivery of the advertising information over the digital broadcast channel of the television network, the report indicating the number of times the advertising information was viewed as taught by Finseth et al. for the advantage of providing statistics valuable information which may later be used by the broadcast provider or advertisers to better target and price advertising as disclosed in paragraph 0107, lines 3-5.

**Claims 12 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (U.S. Publication No. 2003/0040970) and Yamamoto (U.S. Patent No. 7,302,696) as applied to *claim 10* above, and further in view of Peckover (U.S. Patent No. 6,119,101).

Regarding **claim 12**, Miller and Yamamoto discloses everything claimed as applied above (see *claim 5*). However, Miller and Yamamoto fails to specifically disclose the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area and advertising information designated by the advertiser for a designated time period.

In an analogous art, Peckover discloses the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection (see col. 14, lines 3-5 and fig. 40 (location)) and an advertising information temporal selection, selecting, respectively, advertising

Art Unit: 2425

information designated by the advertiser for a designated geographical area (see col. 14, lines 3-5 and fig. 40 (location)) and advertising information designated by the advertiser for a designated time period (see col. 14, lines 9-11, fog. 42 (start date and time)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system and method of Miller and Yamamoto to include the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area and advertising information designated by the advertiser for a designated time period as taught by Peckover for the advantage of automatically rejecting unsolicited messages that do not satisfy the consumer's preferences as disclosed in abstract, lines 17-19.

Regarding **claim 18**, Miller and Yamamoto discloses everything claimed as applied above (*see claim 5*). However, Miller and Yamamoto fails to specifically disclose the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area and advertising information designated by the advertiser for a designated time period.

Art Unit: 2425

In an analogous art, Peckover discloses the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection (see col. 14, lines 3-5 and fig. 40 (location)) and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area (see col. 14, lines 3-5 and fig. 40 (location)) and advertising information designated by the advertiser for a designated time period (see col. 14, lines 9-11, fig. 42 (start date and time)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system and method of Miller and Yamamoto to include the television network content delivery system, wherein the advertiser search command includes at least one of an advertising information geographic selection and an advertising information temporal selection, selecting, respectively, advertising information designated by the advertiser for a designated geographical area and advertising information designated by the advertiser for a designated time period as taught by Peckover for the advantage of automatically rejecting unsolicited messages that do not satisfy the consumer's preferences as disclosed in abstract, lines 17-19.

6. **Claim 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (U.S. Publication No. 2003/0040970) and Yamamoto (U.S. Patent No. 7,302,696) as



Art Unit: 2425

applied to *claim 10* above, and further in view of Finseth et al. (U.S. Publication No. 2009/0193458).

Regarding **claim 15**, Miller and Yamamoto discloses everything claimed as applied above (see *claim 1*). However, Miller and Yamamoto fails to specifically disclose a delivery status interface configured to generate a report provided to the advertiser about delivery of the advertising information over the digital broadcast channel of the television network, the report indicating the number of times the advertising information was viewed.

In an analogous art, Finseth et al. discloses a delivery status interface configured to generate a report provided to the advertiser about delivery of the advertising information over the digital broadcast channel of the television network, the report indicating the number of times the advertising information was viewed (see paragraph 0107).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system and method of Miller and Yamamoto to include a delivery status interface configured to generate a report provided to the advertiser about delivery of the advertising information over the digital broadcast channel of the television network, the report indicating the number of times the advertising information was viewed as taught by Finseth et al. for the advantage of providing statistics valuable information which may later be used by the broadcast provider or advertisers to better target and price advertising as disclosed in paragraph 0107, lines 3-5.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NNENNA N. EKPO whose telephone number is (571)270-1663. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nnenna N. Ekpo/  
Patent Examiner  
September 9, 2009.

/Brian T. Pendleton/

Application/Control Number: 10/523,827

Page 18

Art Unit: 2425

Supervisory Patent Examiner, Art Unit 2425